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Attorney's Docket 071469-0308801
Client Reference: ES-041

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
HONGYU YUE ET AL.

Confirmation No: 4890

Application No.: 10/812,952

Group Art Unit: 2891

Filed: March 31, 2004

Examiner: WILSON, Christian D.

Title: METHOD OF CONTROLLING TRIMMING OF A GATE ELECTRODE
STRUCTURE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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UNDER 37 C.F.R. §1.8**

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Response to Restriction Requirement

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RESPONSE TO RESTRICTION REQUIREMENT
UNDER 35 U.S.C. § 121

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On November 3, 2005, the Examiner issued a Restriction Requirement for the above-captioned patent application. The date for responding to this communication is December 5, 2005, due to the intervening weekend.

In the Restriction Requirement, the Examiner identified two inventions, which are characterized as follows: (1) Group I, encompassing claims 1-33, drawn to a method of manufacturing a semiconductor device, and (2) Group II, encompassing claims 34-65, drawn to an apparatus for manufacturing a semiconductor device. The Examiner required restriction between these two inventions.

In response, the Applicant elects Group II, encompassing claims 34-65, for further prosecution, with traverse.

The Applicant respectfully directs the Examiner's attention to MPEP § 808, which states: "Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction therebetween as set forth in the following sections." (Italics emphasis is in original.) In addition, MPEP § 808.02 states: "The examiner, in order to establish reasons for insisting upon restriction, must show by

appropriate explanation one of the following: (A) Separate classification thereof; (B) A separate status in the art when they are classifiable together; (C) A different field of search.”

The Applicant respectfully submits that the criteria for a proper restriction requirement and a proper requirement for election of species have not been met. Moreover, it is respectfully submitted that the search and examination of the entire application can be made without a serious burden on the Examiner. Accordingly, it is respectfully submitted that the Restriction Requirement should be withdrawn.

Claims 34-65 recite an apparatus including at least one controller configured for storing a process model capable of creating a set of process parameters from the first dimension and a target trimmed dimension and controlling the set of process parameters in the trimming process. While directed to a method, claims 1-33 recite feeding forward the first dimension and the target trimmed dimension to a process model to create a set of process parameters and controlling the set of process parameters in the trimming process. Accordingly, the Applicant respectfully submits that all of the claims share some common threads. The Applicant does acknowledge the Examiner’s assertion that the process can be used to make other and materially different products. However, given the common threads recited by both the apparatus and method claims, the Applicant respectfully questions the propriety of the Examiner’s argument in support of the Restriction Requirement.

In addition, due at least in part to the common threads shared by the claims, the Applicant respectfully submits that there is no undue burden on the Examiner to examine all of the claims together. In other words, it is respectfully submitted that the search and examination of the claims within elected Group II necessarily encompasses the search and examination for the claims within non-elected Group I. In addition, it is respectfully submitted that the Restriction Requirement should be withdrawn to prevent duplicative examination by the Patent Office and unnecessary expense to the Applicant.

The Applicant, therefore, respectfully requests reconsideration and withdrawal of the Restriction Requirement.

Early favorable action on the merits of this application is respectfully requested.

Respectfully submitted

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